

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

ANLIN WANG

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name Address and Telephone Number) 215 9254400
Kairys Rudovsky Messing Feinberg & Lin
718 Arch Street, Ste. 501S, Phila PA

DEFENDANTS

City of Philadelphia, Officer William Gress, Badge #4302, Officers John Doe(s), individually and as police officers for the City of Phila

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☒ 1
Citizen of Another State ☐ 2 ☐ 2
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3
Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability			<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud			<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending			<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage			<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability				<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury				<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical/Malpractice				<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability					<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise					<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 891 Agricultural Acts
					<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 893 Environmental Matters
					<input type="checkbox"/> 895 Freedom of Information Act	<input type="checkbox"/> 895 Freedom of Information Act
					<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 896 Arbitration
					<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
					<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

Brief description of cause

42 U.S.C. § 1983
POLICE MISCONDUCT LITIGATION

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

JUL -6 2018

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFF

JUDGE

MAG JUDGE

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff Philadelphia, PA

Address of Defendant Philadelphia, PA

Place of Accident, Incident or Transaction Philadelphia, PA

RELATED CASE, IF ANY:

Case Number _____ Judge _____ Date Terminated _____

Civil cases are deemed related when Yes is answered to any of the following questions

- | | | | |
|---|---|------------------------------|--|
| 1 | Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2 | Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3 | Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4 | Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE _____

Attorney-at-Law / Pro Se Plaintiff

17749
Attorney I D # (if applicable)

CIVIL (Place a ✓ in one category only)

A. Federal Question Cases

- | | | |
|-------------------------------------|----|--|
| <input type="checkbox"/> | 1 | Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2 | FELA |
| <input checked="" type="checkbox"/> | 3 | Jones Act-Personal Injury |
| <input type="checkbox"/> | 4 | Antitrust |
| <input type="checkbox"/> | 5 | Patent |
| <input type="checkbox"/> | 6 | Labor-Management Relations |
| <input checked="" type="checkbox"/> | 7 | Civil Rights |
| <input type="checkbox"/> | 8 | Habeas Corpus |
| <input type="checkbox"/> | 9 | Securities Act(s) Cases |
| <input type="checkbox"/> | 10 | Social Security Review Cases |
| <input type="checkbox"/> | 11 | All other Federal Question Cases |
- (Please specify) _____

B. Diversity Jurisdiction Cases

- | | | |
|--------------------------|---|--|
| <input type="checkbox"/> | 1 | Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2 | Airplane Personal Injury |
| <input type="checkbox"/> | 3 | Assault, Defamation |
| <input type="checkbox"/> | 4 | Marine Personal Injury |
| <input type="checkbox"/> | 5 | Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6 | Other Personal Injury (Please specify) _____ |
| <input type="checkbox"/> | 7 | Products Liability |
| <input type="checkbox"/> | 8 | Products Liability - Asbestos |
| <input type="checkbox"/> | 9 | All other Diversity Cases |
- (Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, PAUL MESSING, counsel of record or pro se plaintiff, do hereby certify

☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.

☒ Relief other than monetary damages is sought

DATE

7-9-18

Attorney-at-Law / Pro Se Plaintiff

17749

Attorney I D # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F R C P 38

JUL -6 2018

HB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

Anlin Wang

CIVIL ACTION

v.

City of Philadelphia, et al.

18 2857

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

7-9-18
Date

Paul Messing

Attorney-at-law

215 925 4400

215 925 5365

Attorney for Anlin Wang

pmessing@krlawphila.com

Telephone

FAX Number

E-Mail Address

JUL -6 2018

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

ALEXANDER ANLIN WANG,
Plaintiff

v.

**CITY OF PHILADELPHIA,
OFFICER WILLIAM GRESS
Badge Number 4702,
OFFICERS JOHN DOE(S),
individually and as police officers for the
City of Philadelphia
c/o Law Department
1515 Arch Street
Philadelphia, PA 19102,
Defendants**

: Civil Action No. 18-

: JURY TRIAL DEMANDED

:

:

:

:

:

COMPLAINT

I. PRELIMINARY STATEMENT

1. Plaintiff brings this action under 42 U.S.C. §1983 seeking redress for the extraordinary misconduct of defendant William Gress and other Philadelphia police officers who used unreasonable, indiscriminate and unnecessary force against the plaintiff and others who were engaged in protected First Amendment activity. The actions and conduct of the defendant officers were the results of policies, practices, customs, and deliberate indifference on the part of defendant City of Philadelphia, including the use of unnecessary and excessive force at peaceful political protests, and the failure to take disciplinary and remedial action against defendant Gress and other officers despite extensive records of misconduct and abuses of authority.

II. JURISDICTION

2. This action is brought pursuant to 42 U.S.C. §1983. Jurisdiction is founded upon 28 U.S.C. §§1331 and 1343(1), (3), (4) and the aforementioned statutory provision. Plaintiff further invokes the supplemental jurisdiction of this Court under 28 U.S.C. §1367(a) to adjudicate state law claims.

III. PARTIES

3. Plaintiff Alexander Anlin Wang is a resident of Philadelphia, Pennsylvania and at all times relevant to this action was in the Eastern District of Pennsylvania.

4. Defendant City of Philadelphia (“City”) is a municipality of the Commonwealth of Pennsylvania and owns, operates, manages, directs and controls the Philadelphia Police Department which employs defendants Gress and Doe(s).

5. Defendants Gress and Doe(s) (“the defendant officers”) are police officers for the Philadelphia Police Department (“PPD”) acting under color of state law. The defendant officers are being sued in their individual capacities.

6. At all relevant times, all defendants were acting in concert and conspiracy and their actions deprived the plaintiff of his constitutional and statutory rights.

7. At all times relevant to this Complaint, all defendants acted under color of state law.

IV. FACTUAL ALLEGATIONS

8. On July , 2017, a group of political demonstrators gathered outside the Immigration and Customs Enforcement (ICE) offices at 8th and Cherry Streets in Philadelphia to protest the forced separation and detention of immigrant families, including very young children, at the Southern border of the United States.

9. The plaintiff, Alexander Anlin Wang, was among the demonstrators.

10. On July 3, 2017; Philadelphia police officers, without cause or justification, began to forcibly remove demonstrators from the Cherry Street area in front of the ICE offices.

11. At that time and place, Mr. Wang was standing among a group of peaceful demonstrators engaged in protected First Amendment activity.

12. At that time and place, without cause or justification, defendants Gress and Doe(s) physically assaulted Mr. Wang, struck him in the head, forced him to the ground, and jumped on top of him, all of which caused Mr. Wang physical and emotional harms.

13. At no time did Mr. Wang pose a threat of harm to the defendant officers or any other police officers or civilians.

14. There was no legal cause to justify the defendant officers' use of force on Mr. Wang, and the force used against him was unreasonable, unnecessary, and excessive.

15. The actions of the defendant officers were undertaken, at least in part, in retaliation for the exercise of the plaintiff's First Amendment rights and to chill the exercise of those rights.

16. City and PPD policymakers, in violation of established police practices and controlling law, improperly deployed paramilitary police units, including the Counter Terrorism Unit, to confront peaceful political protestors which caused harm to the plaintiff and others.

17. Plaintiff did not commit any offenses against the laws of the Commonwealth of Pennsylvania, the United States or the City of Philadelphia, or engage in any conduct which justified the actions of all defendants.

18. Defendants Gress and Doe(s) acted wilfully, deliberately, maliciously, or with reckless disregard of the plaintiff's constitutional and statutory rights.

19. The use of force in this case was the direct result of all defendants' pattern, practice and custom of subjecting persons such as the plaintiff to the use of force in the absence of probable cause or other lawful grounds.

20. All defendants engaged in the aforesaid conduct for the purpose of violating the plaintiff's constitutional rights by retaliating against the plaintiff for the exercise of his First

Amendment rights to free speech and assembly and/or to chill the free exercise of those rights, and by subjecting the plaintiff to the unreasonable use of force.

21. As a direct and proximate result of the actions of all defendants, the plaintiff suffered and continues to suffer physical and psychological harms, pain and suffering, damage to reputation, some or all of which may be permanent, as well as financial losses.

22. All defendants engaged in the above conduct for the purpose of violating the plaintiff's constitutional rights by subjecting the plaintiff to the unreasonable use of force.

**FIRST CAUSE OF ACTION
FEDERAL CIVIL RIGHTS VIOLATIONS**

23. Plaintiff incorporates by reference paragraphs 1-22 of this Complaint.

24. As a direct and proximate result of all defendants' conduct, committed under color of state law, Alexander Anlin Wang was deprived of the right to free speech and assembly, the right to be free from the unreasonable use of force, the right to be secure in ones' person and property, and to due process of law. As a result, the plaintiff suffered and continues to suffer harm in violation of his rights under the laws and Constitution of the United States, in particular the First, Fourth and Fourteenth Amendments, and 42 U.S.C. §1983.

25. As a direct and proximate result of the acts of all defendants, the plaintiff sustained injuries, emotional harm, loss of liberty and financial losses, all to his detriment and harm.

26. Defendant City of Philadelphia has encouraged, tolerated, ratified and has been deliberately indifferent to the following patterns, practices and customs and to the need for more or different training, supervision, investigation or discipline in the areas of:

a. The unreasonable use of force by police officers;

- b. The proper exercise of police powers, including but not limited to the unreasonable use of force to retaliate against and/or chill the exercise of First Amendment rights;
- c. The improper deployment of paramilitary police units, including the Counter Terrorism Unit, to confront peaceful political protestors;
- d. The monitoring of officers whom it knew or should have known were suffering from emotional and/or psychological problems that impaired their ability to function as officers;
- e. The failure to identify and take remedial or disciplinary action against police officers who were the subject of prior civilian or internal misconduct complaints or lawsuits;
- f. Police officers' use of their status as police officers to employ the use of force or to achieve ends not reasonably related to their police duties;
- g. The failure of police officers to follow established policies, procedures, directives and instructions regarding the use of force under such circumstances as presented in this case;
- h. The use of unnecessary and unreasonable force against non-violent political demonstrators.

27. Defendant City of Philadelphia failed to properly sanction or discipline officers, who are aware of and conceal and/or aid and abet violations of constitutional rights of individuals by other Philadelphia Police Officers, thereby causing and encouraging Philadelphia police, including the defendant officers in this case, to violate the rights of persons such as the plaintiff.

28. Defendant City of Philadelphia is deliberately indifferent to the need to train, supervise and discipline police officers. The Internal Affairs Division (IAD) of the Philadelphia Police Department (PPD) fails to provide an internal disciplinary mechanism that imposes meaningful disciplinary and remedial actions in the following respects:

- a. There are excessive and chronic delays in resolving disciplinary complaints;
- b. There is a lack of consistent, rational and meaningful disciplinary and remedial actions;

- c. There is a failure to effectively discipline substantial numbers of officers who were found to have engaged in misconduct.
- d. The PPD's internal investigatory process has fallen below accepted practices and is arbitrary and inconsistent;
- e. The PPD discipline, as practiced, is incident based rather than progressive. Thus, repeat violators are not being penalized in proportion to the number of violations.
- f. The conduct of IAD investigations demonstrates that PPD internal affairs personnel are not adequately trained and supervised in the proper conduct of such investigations;
- g. A global analysis of IAD's investigatory procedures indicates a pattern of administrative conduct where the benefit of the doubt is given to the officer rather than the complainant;
- h. There are serious deficiencies in the quality of IAD investigations and the validity of the IAD findings and conclusions;
- i. The PPD lacks an effective early warning system to identify, track and monitor "problem" officers.
- j. Despite the fact that defendant Gress had amassed a large number of misconduct complaints and lawsuits, the officer stayed below the radar of an early warning system;
- k. Despite prior complaints and lawsuits against defendant Gress, many of which involved excessive force, the PPD took no meaningful disciplinary or remedial actions, and inadequate steps to more closely monitor, retrain and supervise the officer;
- l. IAD frequently fails to interview available eyewitnesses to incidents involving citizen complaints of misconduct. The interviews that are conducted by IAD are below acceptable standards of police practice and fail to address key issues in the cases; and
- m. IAD fails to acknowledge the disproportionate and extreme use of force used by police officers in the investigation of citizen complaints and fails to properly categorize the police officers' misconduct in those cases as an impermissible use of force.

29. Defendants have by the above described actions deprived the plaintiff of rights secured by the First, Fourth and Fourteenth Amendments to the United States Constitution in violation of 42 U.S.C. §1983.


**SECOND CAUSE OF ACTION
SUPPLEMENTAL STATE CLAIMS**

30. Plaintiff incorporates by reference paragraphs 1-29 of this Complaint.

31. The acts and conduct of defendants Gress and Doe(s) in this cause of action constitute assault and battery, negligent infliction of emotional distress, and intentional infliction of emotional distress under the laws of the Commonwealth of Pennsylvania, and this Court has supplemental jurisdiction to hear and adjudicate these claims.

WHEREFORE, the plaintiff requests the following relief:

- a. Compensatory damages as to all defendants;
- b. Punitive damages as to the individual defendants;
- c. Reasonable attorney's fees and costs as to all defendants;
- d. Such other declaratory and further relief as appears reasonable and just including, but not limited to, a judgment that the City of Philadelphia has failed to properly train, supervise and discipline police officers and is deliberately indifferent to a departmental disciplinary mechanism that is fundamentally ineffective, inadequate and unpredictable; and
- e. A jury trial as to each defendant and as to each count.


Paul Messing
Attorney ID No. 17749
KAIRYS, RUDOVSKY, MESSING,
FEINBERG & LIN
718 Arch Street, Suite 501S
Philadelphia, Pa. 19106
(215) 925-4400
Counsel for Plaintiff